



Federal Communications Commission
Consumer & Governmental Affairs Bureau
Washington, D C 20554

CGB

OCT 21 2003

02-278

Control No. 0302890/kah

The Honorable Trent Lott
United States Senate
487 Russell Senate Office Building
Washington, D. C. 20510

RECEIVED

OCT 28 2003

Dear Senator Lott:

Federal Communications Commission
Office of the Secretary

Thank you for your letter on behalf of your constituent, John Buckley, regarding the Federal Communications Commission's (Commission) recent amendment to the rules implementing the Telephone Consumer Protection Act of 1991 (TCPA).

On September 18, 2002, the Commission released a Notice of Proposed Rulemaking (NPRM) in CG Docket No 02-278, seeking comment on whether it should change its rules that restrict telemarketing calls and unsolicited fax advertisements, and if so, how. The NPRM sought comment on the option to establish a national do-not-call list, and how such action might be taken in conjunction with the national do-not-call registry rules adopted by the Federal Trade Commission (FTC) and the numerous state do-not-call lists. In addition, the Commission sought comment on the effectiveness of the TCPA's unsolicited facsimile advertisement rules, including the Commission's determination that a prior business relationship between a fax sender and recipient establishes the requisite consent to receive advertisements via fax. The Commission received over 6,000 comments from individuals, businesses, and state governments on the TCPA rules.

The record in this proceeding, along with our own enforcement experience, demonstrated that changes in the current rules are warranted, if consumers and businesses are to continue to receive the privacy protections contemplated by the TCPA. As explained in the Commission's Report and Order released on July 3, 2003, the record indicated that many consumers and businesses receive faxes they believe they have neither solicited nor given their permission to receive. Consumers emphasized that the burden of receiving hundreds of unsolicited faxes was not just limited to the cost of paper and toner, but includes the time spent reading and disposing of faxes, the time the machine is printing an advertisement and is not operational for other purposes, and the intrusiveness of faxes transmitted at inconvenient times, including in the middle of the night

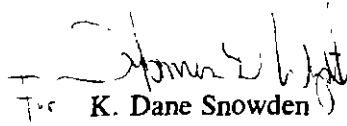
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As we explained in the Report and Order, the legislative history of the TCPA indicates that one of Congress' primary concerns was to protect the public from bearing the costs of unwanted advertising. Therefore, Congress determined that companies that wish to fax unsolicited advertisements to customers must obtain their express permission to do so before transmitting any faxes to them. The amended rules require all entities that wish to transmit advertisements to a facsimile machine to obtain permission from the recipient in writing.

The Commission's amended facsimile advertising rules were initially scheduled to go into effect on August 25, 2003. However, based on additional comments received since the adoption of the July Report and Order, the Commission, on its own motion, determined to delay the effective date of some of the amended facsimile rules, including the elimination of the established business relationship exemption, until January 1, 2005. The comments filed after the release of the Report and Order indicate that many organizations may need additional time to secure this written permission from individuals and businesses to which they fax advertisements. Enclosed is a copy of the Commission's Order on Reconsideration, released on August 18, 2003.

We appreciate Mr. Buckley's comments and have placed a copy of his correspondence in the public record for this proceeding. Please do not hesitate to contact us if you have further questions

Sincerely,

A handwritten signature in dark ink, appearing to read "K. Dane Snowden".

T-6 K. Dane Snowden

Chief

Consumer & Governmental Affairs Bureau

Enclosures

SEP 30 2003 3:29PM

SENATOR LOTT

NO 6211 P 2

TRENT LOTT
MISSISSIPPI

FINANCE

COMMERCE, SCIENCE, AND TRANSPORTATION

RULES

SELECT COMMITTEE ON INTELLIGENCE

United States Senate

SUITE 487, RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-2403

September 30, 2003

245 EAST CAPITOL STREET
SUITE 228
JACKSON, MS 39201

3100 S PASCAGOULA STREET
PASCAGOULA, MS 39567

#1 GOVERNMENT PLAZA
SUITE 428
GULFPORT, MS 39501

911 JACKSON AVENUE
SUITE 127
OXFORD, MS 38655

200 E WASHINGTON STREET
SUITE 145
GREENWOOD, MS 38930

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

CGB
TCPA
2890

Dear Chairman Powell:

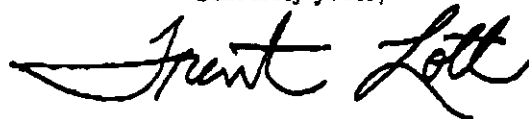
I wanted to write to you on behalf of Mr. John W. Buckley of Columbus, Mississippi.

The enclosures with this letter further details the nature of the concern and should be self explanatory. I would sincerely appreciate you and your staff looking into this situation in a way that will provide every possible assistance. Should you have any questions about this correspondence, please feel free to make any direct constituent contact you feel necessary for whatever additional information you or your staff might need.

As you would probably expect, it would help expedite my handling of this case if you could refer to my constituent by name in your reply. Again, I truly appreciate your time and attention to this for me.

I look forward to hearing from you soon, and with kind regards and best wishes, I am

Sincerely yours,



Trent Lott

TL:mbc

Enclosures

RECEIVED TIME SEP. 30 3:20PM

PRINT TIME SEP. 30. 3:22PM

RAYMOND JAMES
FINANCIAL SERVICES, INC.
MEMBER NASD/SIPC

Wednesday, September 24, 2003

Senator Trent Lott
U.S. Senate
487 Russell Building
Washington, DC 20510

Dear Senator Lott:

My home is in Columbus, MS where I am an independent financial advisor associated with Raymond James Financial Services, Inc... My reason for writing you today is deep concern over some of the new regulations passed recently. It is becoming more difficult daily to address the needs of my clients due to Federal regulations from Congress, the SEC and now the FCC.

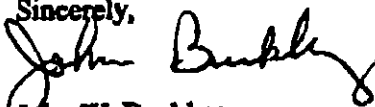
In my humble opinion, some of the interpretations of what average Americans actually want get stretched beyond recognition after a trip through the halls of Congress. I am writing today because the FCC is complicating things even more. I have been told not to call anyone to solicit if they are on the national do not call list unless they have contacted me or made a new buy transaction within the last three months. This is fine with me as I do not like to be solicited at home and there are too many people doing it.

The attached interpretation of a client is someone who has deposited money or made some type of transaction, more specifically, made a deposit of new money or new purchases, within the last 18 months. This interpretation doesn't even recognize that I have clients who may have been drawing an income from their savings or IRA for the past 10 years to supplement their retirement income. These clients need attention just as much or more than someone accumulating for retirement. They are not likely to be making more deposits or buying more securities. Should we be barred from calling them to take care of existing accounts?

Using this guideline, I have to spend time searching a national and state list that could be spent in a more productive manner for my clients. I believe that all of my clients would expect me to call them any hour of the day or night if their investments needed immediate attention.

This has nothing to do with solicitations. Please allow us to do our jobs.

Sincerely,



John W. Buckley
Financial Advisor

Investment Management Division
510 Lincoln Road, P.O. Box 9128, Columbus, Mississippi 39705-0016
662.327.6627

RECEIVED TIME SEP. 30. 3:20PM

PRINT TIME SEP. 30. 3:22PM

HOW NATIONAL NO CALL LIST AFFECTS FA MARKETING.

Beginning October 1, the new National No Call List, created by the Federal Trade Commission through its Telemarketing Sales Rule, will become effective -- changing the way many FAs prospect.

While the TSR is not directly applicable to Raymond James, the FCC has adopted the no call registry and expanded its rule on faxes and the NASD has proposed rule changes to also adopt the no call registry. To comply with both organizations' requirements, Raymond James has created policies for making telemarketing calls and sending faxes.

The new policies do not make it impossible for you to grow your business. However, they place limits on how you may conduct your telemarketing efforts.

The following is a summary of the new rules, the Raymond James policies for making telemarketing calls and sending faxes, along with some frequently asked questions about the rules:

Summary of No Call List Rule

This rule addresses telemarketing calls to prospects and clients, both interstate and intrastate. A telemarketing call is a call used to induce the purchase of a security and would include invitations to seminars or to set up face-to-face meetings to induce such sales. Calls to administer the account for an existing client would not be affected by the rule, but if a transaction is solicited during the call, the call will then be subject to the rule.

The rule prohibits calling a telephone number that is listed on the National No Call List. Exceptions to this rule are calls to businesses, family members, friends, acquaintances and to those with whom you have an established business relationship. An established business relationship means that the client has effected a securities transaction or deposited funds or securities with Raymond James within the last 18 months. Receiving dividends or interest on an account does not constitute a securities transaction. However, if the client requests to be put on Raymond James Prohibited Call List -- http://elrancho.rjf.com/NoCalls/nocall_menu.asp --, then you may not call his or her whatever the level of activity in their account. Included under established business relationships are prospects that have previously contacted you no more than three months prior to your call.

If the telephone number is not on the National No Call List, your state's no call list and the Raymond James Prohibited Call List, you may call it only between 8 a.m. and 9 p.m., local time. You may not block your call identification and you may not disconnect the call until after 15 seconds or four rings. There are also rules in regard to using automatic dialers and pre-recorded messages, which are not summarized here. If you plan on using either, please contact the Legal Department for more information.

May I call a business? Yes. The rule does not apply to business or home business telephone numbers. However, if a business has requested to be placed on Raymond James Prohibited Call List or if your state permits businesses to participate in their no call list, then you may not call it. Thus, you must check the telephone number on the Legal Department's Digest section to confirm it is not on the Raymond James Prohibited Call List.

Is a call to set up a seminar rather than complete a sale over the phone subject to the rule? Calls to set up a seminar or appointment are subject to the rule. If the telephone number is on any of the lists, you cannot call them even though you do not plan to close a sale over the telephone.

Can cell phone numbers be placed on the list? If a cell phone is a personal cell phone number, then the owner may place the number on the National No Call list.

Are telemarketing calls to current clients or prospects that have inquired in the past subject to the rule? If you have an "established business relationship" with a client, which means that they have effected a securities transaction or deposited funds or securities with Raymond James within the last 18 months, then you may call the person. Receiving dividends or interest on an account does not constitute a securities transaction. However, if the client requests to be put on Raymond James Prohibited Call List, then you may not call the person whatever the level of activity in the account. Should that occur, you have no alternative but to contact the client another way or fire him or her as a client. Calls to administer the account for an existing client would not be affected by the rule, but if you try to induce a sale during the call, the call will then be subject to the rule. Prospects may also fall under this exemption. If a prospect has previously contacted you no more than three months prior to your call, then you may contact him or her.

How can I follow up with prospects that may take longer than three months to make a decision about moving their account to Raymond James? The rule provides for an exemption for those who sign written consents with the company. With a consent form, it does not matter if the prospect is listed on any no call list. You may still call the person because he or she has given you his or her express consent. Furthermore, these forms are valid until the prospect requests to be placed on Raymond James Prohibited Call List. If you have a prospect sign a form, keep a copy for your records in case of a future complaint.

How does the National No Call list affect my state's list? Most states have their own no call lists with differing restrictions. A list of all of the states and whether their lists are applicable is located on the Legal Department's Digest site. The telephone lookup key on the page incorporates the National No Call List, states' no call lists and the Raymond James Prohibited Call List. Once you enter a telephone number, you should see in which list the number is included. You may not call a prospect if their telephone number is included on the National No Call List, a state's no call list or the Raymond James Prohibited Call List. When checking on an existing client's telephone number, it is only necessary to check to see if they are listed on the Raymond James Prohibited Call List.

Summary of Unsolicited Fax Rule

The FCC prohibits all unsolicited advertisement faxes, which includes faxes to existing clients and businesses. To send an advertisement fax to a prospect or an existing client, you have to get their signed written consent to receive the fax. This includes faxes that go to computer modems. As long as the advertisement fax travels over the telephone lines, it is prohibited, unless you have a prior signed written consent.

When sending any type of fax, you have to place your name, your company's name, the date and time of the fax, and the telephone number of the sending machine on the first page.

New Raymond James Policies

In light of the new rules, Raymond James has adopted the following policies regarding telemarketing calls and faxes.

Telemarketing Calls to Prospects – Prior to making the telemarketing call, you must go to the Raymond James No Call List in the Legal Department's Digest section to determine if the telephone number is listed. The list is a combination of the National No Call List, states' no call lists and the Raymond James Prohibited Call List. The Raymond James Prohibited Call List is a list of people who have asked not to receive telemarketing calls specifically from Raymond James. If the number is not listed, you may call between 8 a.m. and 9 p.m., local time.

Telemarketing Calls to Existing Clients – As mentioned above, established business relationships are exempt from the National No Call list. However, you must still check the telephone number for clients via the Legal Department's Digest site to determine if it is on Raymond James Prohibited Call List. If the client has requested to be on the Raymond James Prohibited Call List, then you may not call, whatever the client's level of activity.

Fax Policy – You may not send advertisement faxes to any client or prospect without their prior signed, written consent.

Frequently Asked Questions

Whom may I call? If you are making a telemarketing call to a prospect, then you *may not* call anyone who is listed on Raymond James Prohibited Call List, your state's no call list or on the National No Call List. You must first check the Legal Department's Digest site to determine if the telephone numbers you plan to call is on any of the no call lists. If anyone you are talking with asks to be placed on Raymond James Prohibited Call List, you must comply by completing the appropriate form. If they want to be added to the National No Call List, they will have to do that themselves because the rule does not allow a third party to add someone to the list.

How long is the National No Call list valid? A number listed on the National No Call list is valid for 5 years. The FTC will remove any disconnected or reassigned numbers from the list.

When may I call a prospect? Between 8 a.m. to 9 p.m., local time, unless the client consents to a different time.

Does the rule cover automatic dialers or pre-recorded messages? Yes, the rule covers both of these scenarios. If you utilize either, please contact the Legal Department for more information.



TRENT LOTT

UNITED STATES SENATOR**MISSISSIPPI****Telecopier: 202/224-2262****Phone: 202/224-6253****TO:** Jim Balaguer**Company:** _____**FROM:** Steven Wall**MESSAGE:** Constituent letter regarding the
Do Not Call list.ThanksOriginal letter in the mail**TELECOPIER #:** _____**NUMBER OF PAGES** (including cover sheet) 7

If there are any problems receiving this message, please call 202/224-6253,
and ask for: _____

487 Russell Building
Washington, DC 20510

DC